

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GREGORY V. SERIO,

Plaintiff,

-v-

DWIGHT HALVORSON INSURANCE
SERVICES, INC., *et ano*,

Defendants.

USDC SDNY
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DATE FILED: 1/7/05

Case No. 04-CV-3361 (KMK)

ORDER

KENNETH M. KARAS, District Judge:

The Court heard oral argument today on Defendants' motion to dismiss for lack of personal jurisdiction and improper venue or, in the alternative, to compel mediation. As reflected in the record, Defendants withdrew their objections to personal jurisdiction and venue. Accordingly, it is hereby

ORDERED that Defendants' motion to dismiss is DENIED as moot to the extent it seeks dismissal for lack of personal jurisdiction and improper venue. The Court will hold Defendants' demand for mediation—the remaining ground advanced in Defendants' motion—in abeyance pending notice from Defendants whether they wish to move to compel arbitration under the Subscription and Shareholders Agreement of January 16, 1998 ("Subscription Agreement") between Platinum Indemnity, Ltd. and Defendant Food Service Insurance Managers, Inc. ("FSIM"). It is therefore

ORDERED that Defendants shall inform the Court in writing by **January 12, 2005** whether they will move to compel arbitration under the Subscription Agreement. It is further

ORDERED that, if Defendants elect to move to compel arbitration, they will submit a motion and supporting papers no later than **January 26, 2005**. The motion will specify whether Defendants seek to submit the claims arising under the Promissory Note of November 8, 2000 between Platinum and FSIM to arbitration in addition to the claims arising under the Subscription agreement. It is further

ORDERED that Plaintiff will respond no later than **February 11, 2005**. It is further

ORDERED that Defendants may reply no later than **February 18, 2005**.

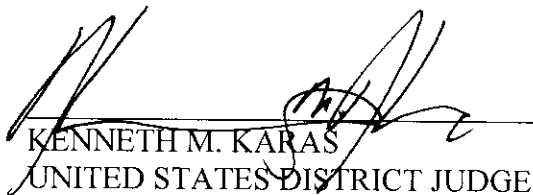
Finally, as discussed on the record at the hearing, it is

ORDERED that the discovery schedule in this case is VACATED. It is further

ORDERED that Defendants shall respond to Plaintiff's discovery demands no later than **Friday, January 17, 2005**.

SO ORDERED.

Dated: January 7, 2005
New York, New York


KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE